

Before the
N.H. Occupational Therapy Governing Board
Office of Allied Health Professionals
Concord, New Hampshire 03301

In the Matter of:
License #0554
Susan C. Drown, OTA

SETTLEMENT AGREEMENT

In order to avoid the delay and expense of further proceedings and to promote the best interests of the public and the practice of occupational therapy, the New Hampshire Board of Occupational Therapy ("the Board") and Susan M. Drown, OTA ("the Respondent") agree to settle certain allegations now pending before the Board in accordance with the following terms and conditions:

1. The Board has jurisdiction to investigate and adjudicate allegations of professional misconduct committed by occupational therapists who are its licensees pursuant to RSA 328-F: 23, I, 328-F: 24 and 328-F: 25, I. The Board may dispose of any such allegations by settlement and without commencing or completing a disciplinary hearing pursuant to RSA 328-F: 24, VI and Ahp 204.01
2. The Board first granted Respondent a license to practice as an occupational therapy assistant in the State of New Hampshire on August 21, 2006. Respondent holds license number 0554. During the relevant time period, Respondent was an employee of RehabCare Group practicing at Pleasant Valley Nursing Home in Derry, New Hampshire.
3. The Board's investigation revealed and Respondent stipulates that if a disciplinary hearing were to take place, Hearing Counsel would prove that Respondent engaged in unprofessional misconduct in violation of RSA 228-F:23, II (a) and (c); Occ

502 (a); AOTA Code of Ethics Principle 6.C; and Occ 408.05 (d) (1) by the following facts:

- A. On or about March 12, 2010, a RehabCare employee discovered that Respondent was actively billing Patient 1, for a time period in which Patient 1 was away from the facility. Respondent was not present in the facility during the time period that she billed for.
- B. During a RehabCare investigation into this matter, Respondent reported that while working with Medicare Part A patients, Patient 1 required assistance using the bathroom. Patient 1 is a Medicare Part B patient. Respondent claimed that because she cannot bill concurrently for Medicare Part A and Part B patients, she added Patient 1 at the end of the day.
- C. Respondent had been trained to process all billing at point of service, as required by RehabCare policies.
- D. A review of Respondent's daily progress note for Patient 1 did not warrant the 40 minutes of billed treatment time that Respondent had entered.
- E. The RehabCare investigation revealed that Respondent approached Patient 1 after the billing issue arose. In response to questioning by Respondent, Patient 1 reported that she could not remember if Respondent had treated her on the day in question. Respondent then asked Patient 1 to tell anyone who asked that Respondent had treated her that day.

F. During the Board investigation, Respondent reported “the billing method chosen was in accordance with common practice in the Rehab department and consistent with the training I had received from my director, [K.D.]” This information was contradicted by RehabCare employees.

G. During the Board investigation, Respondent reported that during RehabCare’s investigation, Patient 1 stated that Respondent had treated her on the day in question. This information was contradicted by RehabCare employees.

4. The Board finds that Respondent committed the acts as described above and concludes that, by engaging in such conduct Respondent violated RSA 228-F:23, II (a) and (c); Occ 502 (a); AOTA Code of Ethics Principle 6.C; and Occ 408.05 (d) (1).

5. Respondent acknowledges that this conduct constitutes grounds for the Board to impose disciplinary sanctions against Respondent's license to practice as an occupational therapist in the State of New Hampshire.

6. Respondent consents to the following disciplinary action by the Board pursuant to RSA 328-F: 23, V:

A. Respondent is hereby REPRIMANDED;

B. Respondent is assessed an ADMINISTRATIVE FINE in the amount of \$1,000. Respondent shall pay this fine in full within thirty (30) days of the effective date of this agreement, as defined further below, by delivering a money order or bank check, made payable to

"Treasurer, State of New Hampshire, " to the Board's office at 2 Industrial Park Drive, Concord, New Hampshire.

- C. Within ten (10) days of the effective date of this agreement, as defined further below, Respondent shall furnish a copy of this Settlement Agreement to any current employer for whom Respondent performs services as an occupational therapist or work which requires specialized training in occupational therapy or an occupational therapy license, or which directly or indirectly involves patient care and to any agency or authority which licenses, certifies or credentials occupational therapists with which Respondent is presently affiliated.

7. For a continuing period of one (1) year from the effective date of this agreement, Respondent shall furnish a copy of this Settlement Agreement to any employer to which Respondent may apply for work as an occupational therapist or for work in any capacity which requires occupational therapy training, or license or directly or indirectly involves patient care and to any agency or authority that licenses, certifies or credentials occupational therapists to which Respondent may apply for any such professional privileges or recognition.

8. Respondent's breach of any terms or conditions of this Settlement Agreement shall constitute unprofessional conduct and a separate and sufficient basis for further disciplinary action.

9. Except as provided herein, this Settlement Agreement shall bar the commencement of further disciplinary action by the Board based upon the misconduct

described above. However, the Board may consider this misconduct as evidence of a pattern of conduct in the event that similar misconduct is proven against Respondent in the future. Additionally, the Board may consider the fact that discipline was imposed by this Order as a factor in determining appropriate discipline should any further misconduct be proven against Respondent in the future. Any future discipline by the Board could include license suspension or revocation.

10. This Settlement Agreement shall become a permanent part of Respondent's file, which is maintained by the Board as a public document.

11. Respondent voluntarily enters into and signs this Settlement Agreement and states that no promises or representations have been made to her other than those terms and conditions expressly stated herein.

12. The Board agrees that in return for Respondent executing this agreement, the Board will not proceed with the formal adjudicatory process based upon the facts described herein.

13. Respondent understands that her action in entering into this agreement is a final act and not subject to reconsideration or judicial review or appeal.

14. Respondent has had the opportunity to seek and obtain the advice of an attorney of her choosing in connection with her decision to enter into this agreement.

15. Respondent understands that the Board must review and accept the terms of this agreement. If the Board rejects any portion, the entire agreement shall be null and void. Respondent specifically waives any claims that any disclosures made to the Board during its review of this agreement have prejudiced her right to a fair and impartial hearing in the future if the Board does not accept this agreement.

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16. Respondent is not under the influence of any drugs or alcohol at the time she signs this agreement.

17. Respondent certifies that she has read this document entitled Settlement Agreement. Respondent understands that she has the right to a formal adjudicatory hearing concerning the matters stated herein and that at said hearing she would possess the rights to confront and cross examine witnesses, to call witnesses, to present evidence, to testify on her own behalf, to contest the allegations to present oral argument and to appeal to the courts. Further, Respondent fully understands the nature, qualities and dimensions of these rights. Respondent understands that by signing this agreement she waives these rights as they pertain to the misconduct described herein.

18. This Settlement Agreement shall take effect as an Order of the Board on the date it is signed by an authorized representative of the Board.

FOR THE RESPONDENT

Date: 4/10/11


Susan M. Drown, OT
Respondent

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This proceeding is hereby terminated in accordance with the binding terms and conditions set forth above.

FOR THE BOARD/*

Date: May 23, 2011

Tina M Kelley
(Signature)

TINA M Kelley
(Print or Type Name)
Authorized Representative of the
New Hampshire Occupational
Therapy Governing Board

/* Board Member, recused:

